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Ms. Cynthia Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423-0001

Re: *Texas Municipal Power Agency v. BNSF Railway Company*,  
STB Docket No. 42056

Dear Ms. Brown:

On January 18, 2011, Texas Municipal Power Agency ("TMPA") filed a reply to BNSF's Reply to TMPA's Petition for Enforcement of Decision. The Board's rules do not permit a reply to a reply. 49 C.F.R. §1104.13 (c). While the Board has accepted replies to a reply under limited circumstances, there must be a valid reason for disregarding the clear prohibition in the rules. TMPA's mere desire to have the last word on the issues raised in its Petition for Enforcement of Decision does not justify suspension of the Board's rules.

In any event, TMPA's Reply does clarify an uncertainty in its original petition as to whether TMPA was seeking a reopening of the prior decisions in this case. TMPA's Reply makes it clear that TMPA is only "seeking enforcement of the existing decision," and that "neither TMPA nor BNSF have [sic] sought reopening." TMPA's Reply at 1. Since TMPA is asking only that the Board enforce the Board's 2003/2004 decisions that prescribed rates for the future, it is therefore telling that TMPA fails once again, as in its original Petition, to say anything about the language in the earlier decisions that expressly defined the rate prescription as limited to the period 2Q 2001-2010. The Board cannot interpret or enforce its prior decisions in this case in a way that is directly contrary to the plain language of those decisions. TMPA's Petition should be denied.

If you have any questions, please do not hesitate to contact me.

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Sincerely,

*Samuel Sipe (KG)*  
Samuel M. Sipe, Jr.  
Counsel for BNSF Railway Company

cc: Parties of Record